



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination 108th session

14 November–2 December 2022

Agenda item 4

**Consideration of reports, comments and information submitted
by States parties under article 9 of the Convention**

List of themes in relation to the combined seventeenth to twenty-second periodic reports of Botswana

Note by the Country Rapporteur*

1. The Committee on the Elimination of Racial Discrimination decided at its seventy-sixth session¹ that the Country Rapporteur would send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report. The present document contains a list of such themes. It is not an exhaustive list; other issues may also be raised in the course of the dialogue. No written replies are required.

The Convention in domestic law and the institutional and policy framework for its implementation (arts. 1, 2, 4, 6 and 7)

2. Examples of cases where the Convention has been invoked by domestic courts; updated information on the measures taken to increase the visibility of the Convention among the population, judges, lawyers and other law enforcement officials, and on the impact of those measures.²

3. Information on the ethnic composition of the State party's population, including non-citizens such as asylum-seekers, refugees, stateless persons and migrants, and on the procedures in place for the recognition of national or ethnic minorities and Indigenous Peoples in the State party.³

4. Updated information on the steps taken to review sections 3 and 15 of the Constitution to ensure their full compliance with articles 1 and 2 of the Convention, and on any other legislative measures, including the status of the unit being set up to review laws, including the Constitution. If the unit has already been established, information on the outcomes of its review to comply with the Committee's recommendation to incorporate fully the definition of racial discrimination based on all grounds, as stipulated in article 1 (1) of the Convention, including direct and indirect discrimination, and to bring differential treatment into full compliance with articles 1 and 2 of the Convention.⁴

* The present report was submitted after the deadline so as to reflect the most recent developments.

¹ [A/65/18](#), para. 85.

² [CERD/C/BWA/QPR/17-22](#), para. 4, and [CERD/C/BWA/17-22](#), paras. 12–13.

³ [CERD/C/BWA/QPR/17-22](#), para. 6, and [CERD/C/BWA/17-22](#), paras. 15–17.

⁴ [CERD/C/BWA/QPR/17-22](#), para. 7, and [CERD/C/BWA/17-22](#), p. 5, (a)–(e).



5. Detailed information on the status of the bill aimed at assigning a human rights mandate to the Office of the Ombudsman, the mandates given, in particular to facilitate the implementation of the Convention (as described in the Committee's general recommendation No. 17 (1993)), and the compliance of the Office with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).⁵

6. Information on special measures for the advancement of groups and individuals protected under the Convention, in particular the Basarwa and other non-Setswana speaking groups such as the Kalanga, the Basubiya and the Wayeyi, and on the impact of those measures.⁶

7. Information on the plans to conduct a comprehensive law reform aimed at a possible review of the Constitutional and other legislative provisions that may have the effect of creating or perpetuating discrimination against the most disadvantaged groups, including in terms of ensuring their equal and effective representation in the Ntlo ya Dikgosi (House of Chiefs); further information on developments in the legal framework and the policies introduced to give effect to the provisions of article 2 of the Convention, including on the impact of the Bogosi Act, which repealed the Chieftainship Act.⁷

8. The status of the planned law on community-based national resource management, aimed at overcoming the segregation of the disadvantaged population residing in remote areas.⁸

Racist hate speech, incitement to racial hatred and hate crimes (arts. 2, 4 and 6)

9. Information on measures taken to criminalize the dissemination of ideas based on racial superiority or hatred, incitement to racial hatred and discrimination and to revise section 94 (2) of the Penal Code.⁹

10. Updated information on any cases considered or decisions taken by national courts regarding acts of racial discrimination, in particular offences referred to in the subparagraphs of article 4 of the Convention; statistical data, disaggregated by sex, age and ethnic or national origin, on complaints filed, investigations, prosecutions launched and sentences handed down for acts prohibited under article 4 of the Convention and on reparation provided to the victims.¹⁰

11. Consideration by the courts of racial motives as an aggravating circumstance, in the absence of an explicit provision to that effect.¹¹

Situation of ethnic minorities and Indigenous People (art. 5)

12. Measures taken to protect the Basarwa people from continuous dispossession of, and any measures to hinder their free access to, their lands, with the necessary infrastructure and public services; information on the implementation of the 2006 High Court ruling in the case of *Roy Sesana and others v. Attorney General* and any other pending cases concerning the same subject.¹²

13. Information on the measures taken to provide primary education in the main mother tongues of non-Setswana speaking tribes and to eliminate the obstacles hindering children belonging to those tribes from benefiting from the educational curricula owing to linguistic barriers.¹³

⁵ CERD/C/BWA/QPR/17-22, para. 9, and CERD/C/BWA/17-22, para. 29.

⁶ CERD/C/BWA/QPR/17-22, para. 7 (e), and CERD/C/BWA/17-22, paras. 18–23.

⁷ CERD/C/BWA/QPR/17-22, para. 8, and CERD/C/BWA/17-22, paras. 24–28.

⁸ CERD/C/BWA/QPR/17-22, para. 10, and CERD/C/BWA/17-22, para. 30.

⁹ CERD/C/BWA/QPR/17-22, para. 11 (a)–(b), and CERD/C/BWA/17-22, p. 9 (a)–(c) and paras. 37–38.

¹⁰ CERD/C/BWA/QPR/17-22, para. 12, and CERD/C/BWA/17-22, paras. 39–42.

¹¹ CERD/C/BWA/QPR/17-22, para. 11 (d), and CERD/C/BWA/17-22, para. 38 (a).

¹² CERD/C/BWA/QPR/17-22, para. 16, and CERD/C/BWA/17-22, paras. 64–68.

¹³ CERD/C/BWA/QPR/17-22, para. 18, and CERD/C/BWA/17-22, paras. 72–79.

14. Information on the measures taken to give children from non-Setswana tribes access to schools close to their family home so that they are no longer separated from their families by being sent to remote schools and to live in uncomfortable hostels, and to ensure that they have equal access to quality education.¹⁴

15. Additional updated information on the measures taken to ensure the enjoyment of the rights set out in article 5 of the Convention by all vulnerable ethnic groups, in particular non-Setswana speaking communities, and on the results of those measures.¹⁵

Situation of victims of trafficking in persons (arts. 2–7)

16. Updated information on the implementation of the Anti-Human Trafficking Act, 2014; investigations conducted, perpetrators prosecuted and penalties imposed; reparations awarded; measures to increase the detection and prevention of cases of trafficking in persons and to identify, protect and provide social services to the victims.¹⁶

Non-citizens, refugees, asylum-seekers and stateless persons (arts. 2 and 5)

17. Laws and enforcement mechanisms to ensure that the basic human rights of asylum-seekers and refugees are upheld, including their access without discrimination to education, the labour market, housing and health care; prevention of racial discrimination and stigmatization, including the violence reportedly inflicted by the police on undocumented immigrants, and information of the outcomes of investigations into such allegations; measures to identify stateless persons in the country.¹⁷

Human rights education to combat prejudice and intolerance (art. 7)

18. Updated information on educational initiatives and legislative and administrative measures to combat prejudice and increase tolerance and coexistence, including in schools.¹⁸

¹⁴ A/HRC/40/64/Add.2, para. 26–27.

¹⁵ CERD/C/BWA/QPR/17-22, paras. 14–15 and 17, and CERD/C/BWA/17-22, paras. 44–98.

¹⁶ CERD/C/BWA/17-22, para. 19, and CERD/C/BWA/17-22, paras. 80–93.

¹⁷ CERD/C/BWA/QPR/17-22, para. 20, and CERD/C/BWA/17-22, paras. 94–98.

¹⁸ CERD/C/BWA/QPR/71-22, paras. 24–26, and CERD/C/BWA/17-22, paras. 121–135.